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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,557	12/03/2001	Min-Goo Kim	678-776(P10031)	7187

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EXAMINER

D AGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/004,557

Applicant(s)

KIM ET AL.

Examiner

Stephen M. D'Agosta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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## DETAILED ACTION

### *Priority*

It is noted that this application appears to claim subject matter disclosed in prior Application No. 2000-75013, filed 12-1-00 yet the Oath/Declaration shows this application as being filed on 12-1-01. The examiner believes this to be a typographical error (eg. the Oath/Declaration page should reflect the 12-1-00 date) and **approves the priority** but asks that the applicant please send a new Oath/Declaration page with the corrected date.

### *Drawings*

The (formal) drawings were received on 4-11-02. These drawings have been reviewed by the draftsman and examiner.

### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of **50 to 150 words**. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

**The Abstract is just over 150 words – it should be shortened somewhat.**

### *Claim Objections*

**Claim 1** objected to because of the following informalities: the term "having transmitted at least two C/I information" is awkward and the examiner has difficulty understanding the applicant's meaning – also see "when at least two two C/I information are equal to each other". Appropriate correction is required. Failure to correct will lead to a USC 112 rejection.

For the purposes of examination, the examiner has interpreted this to mean generic C/I data being transmitted between mobile and BTS.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-6 and 8-10** rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. US 6,606,311 and further in view of Raitola et al. US 6,317,418 (hereafter Wang and Raitola).

As per **claim 1**, Wang teaches a method for selecting one of a plurality of mobiles by a BTS having a plurality of transmitters (figure 4 shows communication between BTS #408 to one mobile #412 – BTS's [eg. CDMA is disclosed, see C2, L32-50] inherently comprise multiple transmitters and support multiple users in the cell), each of the transmitters having a retransmission buffer for storing retransmission data and an initial transmission buffer for storing initial data (C5, L6-11 teaches use of buffers and figure 4 #202 shows use of TCP/IP which has retransmission capability), the plurality of transmitters being capable of providing a data service to associated mobiles (C2, L59-67 teaches IP/Internet data support),

Selecting a mobile associated with a transmitter transmitting data having a high priority among the transmitters with at least two retransmission buffers, when the retransmission data is stored in at least two retransmission buffers among the two retransmission buffers among the retransmission buffers of the plurality of transmitters (Wang's teachings of QoS via multiple classes, see figure 1 which shows Class 1, 2 and 3 along with packet transmission and buffering (C4, L59 to C5, L11) reads on selecting higher priority data to be transmitted/retransmitted before lower priority data if/when retransmission data is stored in one or more buffers);

**But is silent on** the BTS providing a data service to the selected one of the mobiles based on C/I information from the mobiles, comprising the steps of:

Analyzing the retransmission buffers and the initial transmission buffers in the plurality of transmitters associated with the mobiles having transmitted at least two (pieces of) C/I information, when at least (the two pieces of) C/I information are equal to each other, and selecting a mobile associated with a retransmission buffer in which retransmission data is stored, when the retransmission data is stored in said buffer among the retransmission buffers of the plurality of transmitters;

Selecting a mobile associated with the retransmission buffer having a longest data length among the retransmission buffers in the two transmitters, when there exists at least two transmitters transmitting data having a high priority.

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Raitola teaches packet transmission in a wireless system (C1, L19-40) that uses QoS (C3, L23-30), multiple transmitters (C4, L35-41), measurement of C/I ratio (C9, L63-67) and buffer management for transmission/retransmission (C11, L11-22 and C12, L49 to C13, L25). Hence, one skilled would use enhance Wang's QoS system with one that measures C/I to determine need for retransmission of data that did not satisfy the required quality level and is the highest priority data with the longest/most data in it's respective buffer (eg. transmit/retransmit in successive order the buffers containing the most data from the highest priority users first).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Wang, such that C/I information is used, retransmission and initial transmission buffers are used, selecting a mobile associated with a retransmission buffer in which retransmission data is stored and selecting a mobile associated with the retransmission buffer having a longest data length among the retransmission buffers in the two transmitters, when there exists at least two transmitters transmitting data having a high priority, to provide means for the QoS functionality to take into account the RF link's C/I to when buffering data for initial and retransmission of data service.

As per **claim 2**, Wang in view of Raitola teaches claim 1 **but is silent on** comprising the step of retransmitting data upon failure to receive a response signal from the mobile station within a predetermined time after transmitting the data stored in the transmitter associated with the selected mobile.

Raitola teaches a "limit" on how many times a retransmission may be requested. One skilled can also adapt this to be a time limit such that the unit will retransmit if an Acknowledgement is not received within a certain amount of time. The examiner notes that TCP has timer/timeout functionality that operates in a similar fashion and Wang discloses TCP/IP in figure 2.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Wang in view of Raitola, such that it retransmits data upon failure to receive a response signal from the mobile station within a predetermined time after transmitting the data stored in the transmitter associated with the selected mobile, to provide means for ensuring that data is timely received and acknowledgement during transmission.

As per **claim 3**, Wang in view of Raitola teaches claim 1 **but is silent on** comprising the step of retransmitting only previously failed data when a response signal received from the mobile station within a predetermined time after transmitting the data stored in the transmitter associated with the selected mobile indicates that an error has occurred in part of the transmitted data.

The examiner notes that TCP has ACK/NACK functionality that operates in a similar fashion and Wang discloses TCP/IP in figure 2. Hence, the mobile would request a retransmission of data if it is determined that said data is corrupted (eg. via CRC).

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Raitola teaches a "limit" on how many times a retransmission may be requested. One skilled can also adapt this to be a time limit such that the unit will retransmit if an Acknowledgement is not received within a certain amount of time. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Wang in view of Raitola, such that

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Wang in view of Raitola, such that it retransmits only previously failed data when a response signal received from the mobile station within a predetermined time after transmitting the data stored in the transmitter associated with the selected mobile indicates that an error has occurred in part of the transmitted data, to provide means for ensuring that data is timely received if corruption occurs during transmission.

As per **claim 4**, Wang in view of Raitola teaches claim 1 **but is silent on** comprising wherein the BTS selects one of the transmitters excluding a transmitter currently transmitting data to the current mobile.

Wang shows a BTS communicating with a mobile (figure 4) whereby any additional communication (eg. increase in data rate) would either require additional bandwidth on the current channel/transmitter and/or support from another transmitter. Hence one skilled would provide support from either the current transmitter and/or from a second, different transmitter if the user requires an increased data rate.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Wang in view of Raitola, such that the BTS selects one of the transmitters excluding a transmitter currently transmitting data to the current mobile, to provide means for using only available transmitters that are not currently supporting other RF transmissions (which could upset that transmission).

As per **claim 5**, Wang in view of Raitola teaches claim 1 **but is silent on** wherein the BTS selects one of the transmitters excluding transmitters whose response waiting time has not expired after transmitting data.

The examiner notes that TCP has ACK/NACK functionality that operates in a similar fashion and Wang discloses TCP/IP in figure 2. Hence, the mobile would request a retransmission of data if it is determined that said data was corrupted (eg. via CRC) but one skilled would ensure that any available transmitter can be used except those that are currently transmitting OR those that are in process of waiting for a transmission timer to expire (eg. sent data but may need to send it again if corrupted during transmission). This ensures that only completely free transmitters are used and do not impinge on any supporting communications.

Raitola teaches a "limit" on how many times a retransmission may be requested. One skilled can also adapt this to be a time limit such that the unit will retransmit if an Acknowledgement is not received within a certain amount of time.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Wang in view of Raitola, such that the BTS selects one of the transmitters excluding transmitters whose response waiting time has not expired

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after transmitting data, to provide means for using only available transmitters that are not currently supporting other RF transmissions (eg. either supporting actual communications or waiting for a response).

As per **claim 6**, Wang teaches a method for selecting one of a plurality of mobiles by a BTS having a plurality of transmitters (figure 4 shows communication between BTS #408 to one mobile #412 – BTS's [eg. CDMA is disclosed, see C2, L32-50] inherently comprise multiple transmitters and support multiple users in the cell), the number of the transmitters being equal to the number of mobiles for transmitting the data (Wang discloses CDMA which can support a BTS having the number of its transmitters equal to the number of mobiles in its cell that are transmitting data), each of the transmitters having a retransmission buffer for storing retransmission data and an initial transmission buffer for storing initial data (C5, L6-11 teaches use of buffers and figure 4 #202 shows use of TCP/IP which has transmission/retransmission capability AND Wang teaches QoS via multiple classes, see figure 1 which shows Class 1, 2 and 3 along with packet transmission and buffering (C4, L59 to C5, L11) so that higher priority data is to be transmitted/retransmitted before lower priority data if/when retransmission data is stored in one or more buffers), the plurality of transmitters being capable of providing a data service (C2, L59-67 teaches IP/Internet data support),

**But is silent on** the BTS providing a data service to the selected one of mobiles based on C/I information from the mobiles comprising the steps of:

Selecting by the BTS a transmitter having a C/I received from the mobiles among the transmitters other than transmitters having no data and transmitters whose response waiting time has not expired after transmitting data and transmitting data to the selected mobiles.

Raitola teaches packet transmission in a wireless system (C1, L19-40) that uses QoS (C3, L23-30), multiple transmitters (C4, L35-41), measurement of C/I ratio (C9, L63-67) and buffer management for transmission/retransmission (C11, L11-22 and C12, L49 to C13, L25). Hence, one skilled would use enhance Wang's QoS system with one that measures C/I to determine need for retransmission of data that did not satisfy the required quality level and is the highest priority data with the longest/most data in its respective buffer (eg. transmit/retransmit in successive order the buffers containing the most data from the highest priority users first).

The examiner notes that TCP has ACK/NACK functionality that operates in a similar fashion and Wang discloses TCP/IP in figure 2. Hence, the mobile would request a retransmission of data if it is determined that said data was corrupted (eg. via CRC) but one skilled would ensure that any available transmitter can be used except those that are currently transmitting OR those that are in process of waiting for a transmission timer to expire (eg. sent data but may need to send it again if corrupted during transmission). This ensures that only completely free transmitters are used and do not impinge on any supporting communications. Raitola teaches a "limit" on how many times a retransmission may be requested. One skilled can also adapt this to be a time limit such that the unit will retransmit if an Acknowledgement is not received within a certain amount of time.

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It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Wang, such that the BTS providing a data service to the selected one of mobiles based on C/I and selecting by the BTS a transmitter having a C/I received from the mobiles among the transmitters other than transmitters having no data and transmitters whose response waiting time has not expired after transmitting data and transmitting data to the selected mobiles, to provide means for enhancing QoS functionality by monitoring C/I to determine which antenna to use for RF transmission from the many that are not being used.

As per **claim 8**, Wang in view of Raitola teaches claim 7 **but is silent on** wherein BTS selects a transmitter having a longer data length among transmitters, when the number of transmitters selected according to the priority is larger than 2.

Wang teaches use of QoS which provides differently sized data packets via varying data channel bandwidths. Hence, one skilled would provide for a user with a large amount of data to transmit with a transmitter having a longer data length to allow for larger packets to be sent.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Wang in view of Raitola, such that the BTS selects a transmitter having a longer data length among transmitters, when the number of transmitters selected according to the priority is larger than 2, to provide means for a large amount of data to be transmitted via a longer length packet for high(er) priority QoS data users.

As per **claim 9**, Wang in view of Raitola teaches claim 1 **but is silent on** comprising the step of retransmitting the transmitted data upon failure to receive a response signal from the mobile within predetermined time after transmitting the data stored in the transmitter associated with the selected mobile.

Raitola teaches a "limit" on how many times a retransmission may be requested. One skilled can also adapt this to be a time limit such that the unit will retransmit if an Acknowledgement is not received within a certain amount of time. The examiner notes that TCP has timer/timeout functionality that operates in a similar fashion and Wang discloses TCP/IP in figure 2.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Wang in view of Raitola, such that it retransmits data upon failure to receive a response signal from the mobile station within a predetermined time after transmitting the data stored in the transmitter associated with the selected mobile, to provide means for ensuring that data is timely received and acknowledgement during transmission.



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As per **claim 10**, Wang in view of Raitola teaches claim 6 **but is silent on** comprising the step of retransmitting only previously failed data when a response signal received from the mobile station within a predetermined time after transmitting the data stored in the transmitter associated with the selected mobile indicates that an error has occurred in part of the transmitted data.

The examiner notes that TCP has ACK/NACK functionality that operates in a similar fashion and Wang discloses TCP/IP in figure 2. Hence, the mobile would request a retransmission of data if it is determined that said data is corrupted (eg. via CRC).

Raitola teaches a "limit" on how many times a retransmission may be requested. One skilled can also adapt this to be a time limit such that the unit will retransmit if an Acknowledgement is not received within a certain amount of time.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Wang in view of Raitola, such that it retransmits only previously failed data when a response signal received from the mobile station within a predetermined time after transmitting the data stored in the transmitter associated with the selected mobile indicates that an error has occurred in part of the transmitted data, to provide means for ensuring that data is timely received if corruption occurs during transmission.

**Claim 7** rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. and Raitola as applied to claim 6 above and further in view of Goldberg et al. US 5,724,662 (hereafter Goldberg).

As per **claim 7**, Wang in view of Raitola teaches claim 6 **but is silent on** wherein the BTS selects a transmitter with a queue having a high priority among the transmitters, when the number of transmitters selected based on the C/I received from the mobile is larger than two.

Wang does disclose QoS support which uses classes of service (see figure 2, #212) for high, medium and low priorities.

Goldberg teaches a method in RF communications for assigning and utilizing sets of transmitters (eg. two or more) to support mobile-to-BTS communications (title, abstract, figures 1 and 3 and C1, L45-52).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Wang in view of Raitola, such that the BTS selects a transmitter with a queue having a high priority among the transmitters, when the number of transmitters selected based on the C/I received from the mobile is larger than two, to provide means for monitoring C/I from multiple antenna links to support RF communications for QoS-buffered packet transfer.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

1. Yokayama et al. US 6,324,166
2. Widegren et al. US 6,374,112
3. Seo et al. US 6,469,993

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen D'Agosta

